

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*,

Plaintiffs,
v.

U.S. DEPARTMENT OF COMMERCE, *et
al.*,

Defendants.

Civil Action No. 8:18-cv-01041-GJH

Hon. George J. Hazel

LA UNIÓN DEL PUEBLO ENTERO, *et al.*,

Plaintiffs,
v.

WILBUR L. ROSS, sued in his official capacity as U.S. Secretary of Commerce, *et al.*,

Defendants.

Civil Action No. 8:18-cv-01570-GJH

Hon. George J. Hazel

NOTICE OF FILING OF PLAINTIFFS' PROPOSED SCHEDULING ORDER

Pursuant to the Court's order of July 3, 2019, Plaintiffs hereby submit and request that the Court enter the attached Proposed Scheduling Order.

Earlier today, on July 5, 2019, Plaintiffs met and conferred with Defendants regarding the attached proposed scheduling order. Defendants stated that they did not oppose Plaintiffs' proposed scheduling order except that Defendants requested that the schedule be held in abeyance indefinitely until Defendants reach a "new" decision regarding whether or not they will attempt to inquire about citizenship status as part of the 2020 decennial census.

There is no reason to hold the proposed scheduling order in abeyance. Defendants cannot avoid Plaintiffs' equal protection and Section 1985 claims merely by pretending that the same or

a similar decision is somehow “new” or somehow cures the discriminatory intent that Plaintiffs have established as motivating the addition of the citizenship question to the 2020 census. *See, e.g., Ne. Fla. Chapter of Associated Gen. Contractors v. City of Jacksonville*, 508 U.S. 656 (1993); *City of Mesquite v. Aladdin’s Castle, Inc.*, 455 U.S. 283 (1982); *N.C. State Conference of NAACP v. McCrory*, 831 F.3d 204, 225 (4th Cir. 2016).

During the meet-and-confer teleconference, Defendants suggested that Plaintiffs likely would need to seek additional discovery in the wake of a purportedly “new” decision. Plaintiffs agree. However, that potentiality is not a basis for indefinitely deferring discovery on Plaintiffs’ valid equal protection and Section 1985 claims, particularly given that Plaintiffs’ proposed scheduling order expressly provides for modification in light of any developments, “including but not limited to any specific efforts by the federal government to inquire about citizenship status as part of the 2020 decennial census.”

Defendants’ proposal to hold discovery in abeyance is particularly inappropriate given Defendants’ repeated representations to this Court and other courts, including the United States Supreme Court, that timing is of the essence and that “the census questionnaire needed to be finalized for printing by the end of June 2019.” *Department of Commerce v. New York*, No. 18-966, slip op. at 8 (June 27, 2019).

Plaintiffs respectfully request that the Court enter the attached proposed scheduling order.

Dated: July 5, 2019

Respectfully Submitted,

/s/ Daniel Grant (Bar. No. 19659)
/s/ Denise Hulett

**MEXICAN AMERICAN LEGAL DEFENSE
AND EDUCATIONAL FUND**

Thomas A. Saenz*
Nina Perales *
Denise Hulett*
Andrea Senteno*
Burth G. López (Bar No. 20461)
Tanya G. Pellegrini*
Julia A. Gomez*

1016 16th Street NW, Suite 100
Washington, DC 20036
Phone: (202) 293-2828
tsaenz@maldef.org
nperales@maldef.org
dhulett@maldef.org
asenteno@maldef.org
blopez@maldef.org
tpellegrini@maldef.org
jgomez@maldef.org

Attorneys for LUPE Plaintiffs

**ASIAN AMERICANS ADVANCING JUSTICE |
AAJC**

John C. Yang*
Terry Ao Minnis (Bar No. 20547)
Niyati Shah*

1620 L Street, NW, Suite 1050
Washington, DC 20036
Phone: (202) 815-1098
Facsimile: (202) 296-2318
jyang@advancingjustice-aajc.org
tminnis@advancingjustice-aajc.org
nshah@advancingjustice-aajc.org

Attorneys for LUPE Plaintiffs

COVINGTON & BURLING LLP

Shankar Duraiswamy*
José E. Arvelo*
Dustin Cho*
Amee Frodle*
Daniel Grant (Bar. No. 19659)
Bianca Nunes*
Tina M. Thomas*

One CityCenter
850 Tenth Street, NW
Washington, D.C. 20001-4956
Tel: (202) 662-6000
Fax: (202) 662-6302
dgrant@cov.com
sduraiswamy@cov.com
jarvelo@cov.com
dcho@cov.com
afrodle@cov.com
bnunes@cov.com
tthomas@cov.com

P. Benjamin Duke*
The New York Times Building
620 Eighth Avenue
New York, NY 10018-1405
Tel: (212) 8411000
Fax: (212) 841-1010
pbdude@cov.com

Lawrence A. Hobel*
Karun Tilak*
Salesforce Tower, 415 Mission Street
San Francisco, CA 94105-2533
Tel: (415) 591-6000
Fax: (415) 591-6091
lhobel@cov.com
ktilak@cov.com

Attorneys for Kravitz Plaintiffs

**Admitted pro hac vice*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND**

ROBYN KRAVITZ, *et al.*
Plaintiffs,
v.

U.S. DEPARTMENT OF COMMERCE, *et al.*
Defendants.

Civil Action No. 8:18-cv-01041-GJH

Hon. George J. Hazel

LA UNIÓN DEL PUEBLO ENTERO, *et al.*
Plaintiffs,

v.
WILBUR L. ROSS, in his official capacity
as U.S. Secretary of Commerce, et al.
Defendants.

Civil Action No. 8:18-cv-01570-GJH

Hon. George J. Hazel

[PROPOSED] SCHEDULING ORDER

Pursuant to the telephonic hearing held on July 3, 2019, the Court hereby issues the following scheduling order:

1. Discovery regarding Plaintiffs' equal protection and § 1985 claims may commence as of July 5, 2019 and shall conclude by August 19, 2019.
2. Written Discovery
 - a) Plaintiffs may serve written discovery requests on the Department of Commerce and Department of Justice.
 - b) Defendants shall serve objections to any such written discovery requests and any associated privilege log within seven days of service, and shall produce all responsive, non-privileged documents and information within 20 days of service.

3. Depositions

- a) Plaintiffs may take up to five depositions of Department of Commerce and/or Department of Justice witnesses (“Defendant Witnesses”).
- b) Plaintiffs must obtain leave of Court to take more than five depositions of Defendant Witnesses, and the Court shall grant leave upon a showing of good cause.
- c) Defendants reserve their right to object to any specific request for the deposition of a Defendant Witness, but must object within 24 hours of receiving a specific deposition request.

4. Plaintiffs may issue third party subpoenas for documents and depositions, subject to the resolution of any objections by the person or entity subpoenaed.

5. Discovery Motions

- a) To expedite resolution of discovery disputes, any discovery motions shall be presented to the Court in the form of a letter-brief not to exceed three pages in length. Oppositions and replies shall also be submitted in the form of a letter-brief not to exceed three pages in length.
- b) Opposition letter-briefs shall be due within 2 days of service of the opening letter-brief and replies shall be due within 1 day of service of the opposition letter-brief.
- c) The Court shall endeavor to resolve promptly any discovery motion.

6. An evidentiary hearing on Plaintiffs’ Rule 60(b) Motion, including testimony from witnesses, if any, shall be held on Tuesday, September 3, 2019 and Wednesday, September 4, 2019.

7. The parties reserve the right to seek modification of this Scheduling Order and the allowable scope of discovery based on any ongoing developments, including but not limited to any specific efforts by the federal government to inquire about citizenship status as part of the 2020 decennial census.

The above schedule is HEREBY ENTERED this ____ day of July, 2019.

The Honorable GEORGE J. HAZEL
United States District Judge